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IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF UTAH

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HONOR WILLSON,

Plaintiff,

v.

DANI HERZOG and RUSTY BINGHAM,

Defendants.

**ORDER ADOPTING REPORT AND  
RECOMMENDATION AND DISMISSING  
CASE WITHOUT PREJUDICE**

Case No. 1:18-cv-76-JNP-PMW

District Judge Jill N. Parrish

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Pro se plaintiff Honor Willson initiated this action on July 2, 2018 against Dani Herzog,<sup>1</sup> an employee of Utah's Division of Child and Family Services, and Rusty Bingham, an officer in the Riverdale City Police Department. (ECF No. 1). On February 27, 2019, Magistrate Judge Warner ordered Ms. Willson to show cause why her claims against Mr. Bingham should not be dismissed for failure to file proof that she had served him in the seven months since the lawsuit was filed. (ECF No. 18). Magistrate Judge Warner directed Ms. Willson to respond no later than March 29, 2019, and warned her that a failure to respond would result in a recommendation that her claims against Mr. Bingham be dismissed.

On April 17, 2019, having received no response from Ms. Willson, Magistrate Judge Warner issued a Report and Recommendation that Mr. Bingham be dismissed from the case. (ECF No. 20). He further informed Ms. Willson that she had 14 days to file any objections to the Report and Recommendation.

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<sup>1</sup> On March 21, 2019, the court adopted Magistrate Judge Warner's report and recommendation that Ms. Herzog be dismissed from this case. (ECF No. 19).

Ms. Willson did not file an objection to the Report and Recommendation, and therefore waived any argument that it was in error. *See United States v. One Parcel of Real Prop.*, 73 F.3d 1057, 1060 (10th Cir. 1996). The court will decline to apply the waiver rule only if “the interests of justice so dictate.” *Moore v. United States*, 950 F.2d 656, 659 (10th Cir. 1991). The court has reviewed the Report and Recommendation and concludes that it is not clearly erroneous, and finds that the interests of justice do not warrant deviation from the waiver rule. Thus, the court will adopt the Report and Recommendation in full.

### **ORDER**

For the reasons articulated, plaintiff’s claims against defendant Rusty Bingham are **DISMISSED WITHOUT PREJUDICE**. The Clerk is directed to close this case.

Signed May 8, 2019

BY THE COURT



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Jill N. Parrish  
United States District Court Judge